

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 33

Filed by: Interference Trial Division Merits Panel  
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UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

ROBERT M. HUDZIAK, H. MICHAEL SHEPARD, AXEL ULLRICH and  
BRIAN M. FENDLY

Junior Party

(Application Nos. 09/343,310 and 10/174,806;  
real party-in-interest **Genentech, Inc.**),

v.

DAVID B. RING, ARTHUR E. FRANKEL, WALTER LAIRD and  
MICHAEL J. BJORN

Senior Party

(Application Nos. 08/477,512 and 08/486,817 and  
Patent Nos. 4,753,894; 5,169,774 and 6,054,561;  
real party-in-interest **Chiron, Corp.**).

Patent Interference No. 105,267 (RES)

Before: SCHAFER, MEDLEY and TIERNEY, Administrative Patent Judges.

**Judgment - Bd.R. 127**

Pursuant to the panel decision on priority (Paper 32), it is

ORDERED that judgment as to the subject matter of Count 1 (Paper 1, p. 11) is awarded  
against both parties;

FURTHER ORDERED that junior party, Genentech, Inc. (real party-in-interest of named  
inventors ROBERT M. HUDZIAK, H. MICHAEL SHEPARD, AXEL ULLRICH and BRIAN M.  
FENDLY) is not entitled to a patent containing Claims 1, 40 and 41 of Application 10/174,806 or  
Claims 40-48 Application 09/343,310;

FURTHER ORDERED that senior party, Chiron Corp. (real party-in-interest of named  
inventors DAVID B. RING, ARTHUR E. FRANKEL, WALTER LAIRD and MICHAEL J.

BJORN) is not entitled to a patent containing Claims 1-7, 9-12 and 20-29 of Patent 4,753,894; Claim 1 of Patent 5,169,774; Claims 1-31 of Patent 6,054,561; Claims 88-115 of Application 08/486,817 or Claims 88-108 and 130-150 of Application 08/477,512;

FURTHER ORDERED that a copy of this judgment be made of record in the files of Applications 09/343,310; 10/174,806; 08/477,512 and 08/486,817 and Patents 4,753,894; 5,169,774 and 6,054,561;

FURTHER ORDERED that if there is any settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 41.205.

/Richard E. Schafer/  
ADMINISTRATIVE PATENT JUDGE

/Sally C. Medley/  
ADMINISTRATIVE PATENT JUDGE

/Michael P. Tierney/  
ADMINISTRATIVE PATENT JUDGE

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

cc: (via facsimile and overnight mail)

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